



IN THE COURT OF APPEAL
OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

5 December 2024
CASE No: AIFC-C/CA/2024/0013

ALAGUZOVA ASSEMGUL AMANGELDIYEVNA

Claimant/Appellant

v

BAGAZAT AMANTAY

Defendant/Respondent

JUDGMENT

Justice of the Court:

The Lord Faulks KC



ORDER

- 1. The Defendant shall forthwith return the car, namely a Lexus brand car, model LS 460, registration number 686AIG01, colour black, year of manufacture 2007, body JTHGL46F675010214, to the Claimant.**
- 2. The Defendant do pay to the Claimant a penalty in the sum of 240,945 Tenge, AIFC court fee in the sum of 32,500 Tenge, expenses in the sum of 350,000 Tenge and for translation services the sum of 55,00 Tenge. These sums shall be paid within 14 days of the Order reflecting my decision.**

JUDGMENT

1. This is an appeal against the judgment of AIFC Judge Charles Banner KC in Case No: AIFC-C/SCC/2023/0045, dated 15 February 2024.
2. He gave judgment for the Claimant in the sum of 7,348,445 Tenge (comprising contractual damages of 6,700,000 Tenge, together with a penalty of 240,945 Tenge and costs of 437,500 Tenge). However, he declined to make an Order requiring the Defendant to transfer the car (the subject of the dispute) back to the Claimant.
3. The Claimant sought permission to appeal from this court and I gave permission to appeal on the basis that there were real prospects of an appeal succeeding.
4. The Defendant has failed to pay any of the sums owing to the Claimant in connection with the transfer of the car. Nor has he engaged with the court in either in relation to the claim or in relation to this appeal.
5. It is clear from the terms of the Mediation Settlement Agreement that title to the car would not pass until the agreed sale price was paid. In fact, none of the instalments agreed have been paid by the Defendant. In these circumstances the car remains the property of the Claimant.
6. The judgment of Judge Charles Banner KC accurately summarised the issues and I do not disagree with any of his findings or conclusions except as to his refusal to make an order transferring the car back to the Claimant.
7. It seems likely that the Defendant will not pay any of the sums owing by him in connection with the transfer of the car, and if she cannot recover physical possession of the car, the Claimant will thus have parted with the car and received nothing in return.
8. In the circumstances, I am satisfied that an Order for the return of the car is entirely consistent with the Civil Code of the Republic of Kazakhstan and with the Overriding Objective as provided by AIFC Court Rule 1.6.
9. I therefore allow this appeal, and vary the judgment below.
10. The Defendant shall forthwith return the car, namely a Lexus brand car, model LS 460, registration number 686AIG01, colour black, year of manufacture 2007, body JTHGL46F675010214, to the Claimant.

11. I also order that the Defendant do pay to the Claimant a penalty in the sum of 240,945 Tenge, AIFC court fee in the sum of 32,500 Tenge, expenses in the sum of 350,000 Tenge and for translation services the sum of 55,00 Tenge. These sums shall be paid within 14 days of the Order reflecting my decision.

By the Court,

The Lord Faulks KC,
Justice, AIFC Court

Representation:

The Claimant was represented by Ms. Ibragimova Assiya, “VETO” Legal Center” LLP, Astana, Kazakhstan.

The Defendant was not represented.